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ZBA decision (Cambridge Savings), 01/15/2003

ZONING BOARD OF APPEALS

DOCKET NO. 3186

IN THE MATTER OF

626 MASSACHUSETTS AVE.

ARLINGTON, MA

CAMBRIDGE SAVINGS BANK

Petitioner

APPLICATION FOR SPECIAL PERMIT

HEARING DATE: OCTOBER 8, 2002

DECISION: JANUARY 15, 2003

DECISION OF THE BOARD

MEMBERS PRESENT:

Joseph F. Tulimieri, Chair

Patrick Dignan

Susan McShane, Esquire

STATEMENT OF THE PROCEEDINGS

The Petitioner, represented by Daniel Fraine, is in possession of Special Permits for signs in accordance with Section 7.09 of the Arlington Zoning By-law. Four such permits exist and are identified as Dockets Numbers 1058,2160,2840 and 3185. Four years ago, the Petitioner made several changes to the permitted signs which were determined to be within the context of the most recent (Docket #2840 granted in 1992 and Docket #3185 granted in August 2002). At this time, the Petitioner is requesting permission to permanently display an existing temporary window sign in the ATM window. Consequently, a Special Permit is required.

Statutory notice was given and a public hearing was conducted by the Arlington Zoning Board of Appeals. No abutters appeared to oppose the issuance of a Special Permit.

Submissions were presented to the Board for its consideration, as follows:

- (1) Application for a Special Permit properly executed by the Petitioner.
- (2) Sample "SUM" sign to be located on the east elevation of the building (AIM window).
- (3) Memorandum, dated October 4, 2002, from Kevin J. O'Brien acting instead of Alan McClennen, Jr., Secretary Ex-Officio of the Arlington Redevelopment Board.

[On this matter, Mr. McClennen is recusing, given his position as Trustee and Director of the Petitioner's governing boards.]

The Petitioner requests permission to permanently display a so-called "SUM" sign currently displayed in a window near the drive through window. The Arlington Redevelopment Board, in its memorandum, dated October 4, 2002, and prepared by Kevin J. O'Brien of the Department of Planning and Community Development, asserts that the sign in question is not a particularly attractive addition to the building's signage system. Further, it is noted that similar "SUM" signs are being displayed in excess of the permitted sixty-days at many Arlington AIM locations. The Board notes that the Petitioner is trying to do the right thing and should not be put in a disadvantageous position relative to competitive banks which have made no effort to comply with the provisions of the Zoning By-law.

OPINION OF THE BOARD

The Board considered the Petitioner's application and all submitted materials. Based upon the evidence presented and in accordance with the applicable requirements of the Zoning By-law, the Board makes its findings with due regard to the nature and to the condition of all adjacent structures and uses them in the R-1 zoning district within which the property is located, as follows:

- (1) The use requested is listed in the Table of Use Regulations Section 5.04, use 1.01 as a special permit in the district for which application is made or is designated elsewhere in this Bylaw.
- (2) The requested use is essential and desirable to the public convenience or welfare.
- (3) This property has always been used for commercial/retail purposes and the proposed additional signage will not impair pedestrian safety, nor will it create undue traffic congestion.
- (4) The proposed signage will not in any fashion overload any municipal water, drainage or sewer system or any other public systems-
- (5) There are no special regulations set forth in Article 11 that need to be fulfilled.
- (6) The requested use will not impair the integrity or character of the commercial/ retail district or adjoining districts, nor is it detrimental to health, morals or welfare.
- (7) The requested use will not cause an excess of that use that could be detrimental to the zoning district in which it is located.

DECISION OF THE BOARD

The Board grants a Special Permit and imposes the following conditions:

1. The sign, identified by the Petitioners as the "SUM" sign, may be displayed for a period of one hundred and eighty (180) days from the date that this decision is filed with the Office of the Town Clerk.
2. That the Building Inspector is herein requested to examine all local banks with ATM locations and to direct, in writing, that all similar temporary signs -- exceeding the limits provided in the Zoning Bylaw -- be removed, and further, to instruct such banks that relief by the Zoning Board of Appeals for the continued placement may be sought. In no event shall such relief exceed 180 days. The Board opines that all conditions required for granting a Special Permit have been met by the Petitioner. Therefore, the Board, by unanimous vote, grants the Petition as conditioned above.

The Board herein makes a detailed record of its findings relative to this decision; sets forth the reasons for its decision and findings; directs that this decision and record be filed in the Office of the Arlington Town Clerk and in the Office of the Redevelopment Board and shall be public record; and that notice of the decision shall be given forthwith to each party in interest. Appeals of this decision, if any, may be made pursuant to Section 17 of the Zoning Act (Massachusetts General Laws, Chapter 48) and shall be filed within 20 days after the date of filing of such decision in the Office of the Arlington Town Clerk.

Joseph F. Tulimieri, Chair

Patrick Dignan

Susan McShane, Esquire